



# CALIFORNIA GAMBLING CONTROL COMMISSION

## FINANCIAL INTEGRITY AND STATE MANAGERS ACCOUNTABILITY ACT (FISMA)

**REPORT YEAR:** 2009  
**AGENCY NAME:** California Gambling Control Commission  
**ORGANIZATION CODE:** 0855

### INTRODUCTION

---

In accordance with the Financial Integrity and State Managers Accountability (FISMA) Act of 1983, the California Gambling Control Commission (Commission) submits this report on the review of our systems of internal control for the biennial period ended December 31, 2009.

Should you have any questions related to this biennial report, please contact Karen Cotton, Deputy Director, Planning and Support Services Division at 916-263-0904.

### BACKGROUND

---

The Commission was created as a full-time Commission in 1998 with the enactment of the Gambling Control Act (Act); however, the Commission did not become operative until August 29, 2000. The focus of the Commission is to act as the regulatory body over gambling establishments (card rooms) and over all persons or things having to do with the operation of gambling establishments, including third party proposition services, and to ensure compliance with certain provisions of the Tribal-State Gaming Compacts (Compacts).

The Commission is responsible for setting policy, establishing regulations, conducting audits, making determinations of suitability for gaming employees and other individuals and entities, issuing licenses, acting as the administrator of gaming revenues deposited into the Indian Gaming Special Distribution Fund (SDF) and the trustee over the revenues deposited into the Indian Gaming Revenue Sharing Trust Fund (RSTF), and administering the provisions of the Act and the Compacts.

## **OUR APPROACH TO GOVERNANCE**

### **The Commissioners**

The Commissioners' approach to governance is that they serve as impartial decision makers regarding the suitability and concentration of gambling operations in California. They maintain professional, collaborative interactions with their stakeholders to be successful in their regulatory responsibilities.

The Commission meets twice monthly to make suitability and other adjudicatory decisions regarding gambling operations in California. The Commission also meets regularly to consider new or amended regulations to facilitate its oversight responsibilities.

### **Executive Management**

Executive management demonstrates through their actions the commitment to high ethical standards and professional behavior in interactions with stakeholders. The Commission's workplace guidelines communicate these expectations to our employees.

Managers at every level are expected to maintain contact with, and consistently emphasize appropriate behavior to, all staff. Management embraces attitudes and actions that reflect a sound internal control environment.

Executive management is in the process of establishing an Audit and Compliance Review Committee, as well as developing detailed internal control checklists and questionnaires, and an audit plan to ensure the timely submission for the 2010-11 FISMA reporting period.

## **OUR STRATEGIC PLANNING PROCESS**

The Commission recently conducted a SWOT analysis and updated our strategic plan. Our strategic planning process, mission, vision, values, and goals affirm our commitment to the stakeholders we serve and encourages change and innovation to improve the Commission's services to our stakeholders.

An overview of our Strategic Plan is presented on the next page.



***Vision***

We promote integrity in California's gambling environment.



***Mission***

We take appropriate action to foster honest, competitive gambling in California that is free of criminal and corruptive elements.

We oversee the State's interest in Tribal-State Compacts.



***Values***

As a government agency dedicated to protecting and serving California's gambling public, the Commission's values are:

- ***Communication*** – We listen and share public information openly and honestly with the goal of mutual understanding and transparency.
- ***Integrity*** – We approach our responsibilities with honesty and fairness, and are respectful of others.
- ***Efficiency*** – We strive to deliver high quality services maximizing available resources.
- ***Effectiveness*** – We make informed decisions based on the best information available.
- ***Innovation*** – We value new ideas and concepts, which support the successful delivery of services.
- ***Teamwork*** – We value our employees, their diversity and work together to meet our strategic goals.



***Strategic Goals***

Maintain our efforts to establish cooperative and professional relationships with our stakeholders

Encourage mutual understanding and transparency in our communications with our stakeholders.

Develop, retain and value employees.

Encourage organizational innovation to improve services to our stakeholders.

Enhance public trust by establishing measures to ensure gambling operations are compliant with the laws, rules





## **COMMITMENT TO INTEGRITY, INNOVATION AND COMPETENCE**

### **Conflict of Interest and Incompatible Activities Disclosures**

To ensure integrity in decision-making, the Commission adopted regulations to establish post-employment restrictions on all staff, including Commissioners and the Executive Director that have had access to privileged information, or have had duties and responsibilities that generally involved the making of recommendations or decisions related to Commission administrative actions or proceedings. These regulations preclude those staff from representing any client before the Commission, for compensation, for a period of three years after leaving the Commission. The Commission's post-employment restriction goes beyond the standard one-year "revolving door" provision in the Political Reform Act that applies to other State and local agencies, and the Legislature.

Moreover, the Commission has established formal written policies and procedures regarding incompatible activities, including the prohibition of gambling at any gaming establishment or location (including Tribal Casinos) which fall within the Commission's jurisdiction in California during employment at the Commission.

### **Ethics Policy and Training**

In 2009, the Commission adopted a formal written ethics policy and required that all employees complete an ethics training course by the end of the 2009 calendar year.

### **Protecting Our Information Assets**

The Commission collects and maintains confidential and sensitive information and strives to manage data security and privacy through an integration of implementing appropriate security technologies, developing and implementing policies and procedures, and employing appropriate staff.

The Commission has staff with technical skills and abilities to maintain the integrity of our systems, and in coordination with our Information Security Officer, protect the Commission's information assets by issuing policies and procedures; providing training on data security, privacy and integrity; performing risk assessments; and ensuring the operational recovery plan is current.

The Information Security Officer reports directly to the Executive Director. This individual is involved in executive strategic planning activities to ensure all management is aware of the Commission's efforts to comply with information security and privacy practices.

### **Investing in Employee Competence**

In 2009, the Commission established written policy and procedures regarding training. Moreover, the Commission made a significant investment in training to ensure that staff acquires the technical knowledge and skills required to effectively perform their



responsibilities. Staff also receives on-the-job training in regulatory assignments and is mentored by journey-level staff members. Whenever possible, the Commission brought trainers onsite to maximize our training efforts and include the majority of the Commission's staff in these training opportunities.

### **Our Major Accomplishments**

#### **Licensing**

Executive management recommended to the Commission to adopt regulations to convert initial and renewal licenses from one to two years to implement "best business practices" and more effectively manage the licensing processes at the Commission. Along with the two year renewal proposal, the Commission also considered the adoption of regulations to establish a key employee portable personal license to facilitate employment opportunities for key employees of gambling establishments regulated by the Commission. While in the process of developing these regulations, the gaming industry sought legislation to codify the Commission's ideas in statute and this effort culminated in the enactment of SB 730 (Florez, Chapter 438, Statutes of 2007).

Two-Year Licensing - Modifying the license renewal period for licensed gambling establishments from one to two years lessened the burden on licensees, and established "best business practices" in the Commission's initial and renewal licensing processes. Moreover, this change provided the Bureau of Gambling Control (Bureau) within the Department of Justice with critically needed time to perform the required background investigations of license applicants. The Commission adopted regulations effective in June 2008 to implement SB 730, which reflected the conversion to a two-year biennial period along with the necessary revision of application forms.

Key Employee Interim and Personal Licenses – In January 2008, the Commission adopted regulations to allow an individual who possessed a State or Local government issued work permit to work for a non-corporate gambling establishment on an interim basis while their application was being processed. Prior to the passage of the regulations, only corporate owned gambling establishments could immediately hire an individual to work as a key employee while their application was being processed.

The enactment of SB 730 also provided that key employee licenses that were issued to individuals would become personal, portable licenses. The personal license allows individuals to work in any gambling establishment as long as employment is terminated from a gambling establishment prior to commencing employment in another gambling establishment. Prior to SB 730, an individual could only work as a key employee as long as they were attached to and endorsed on the license of a specific gambling establishment. In July 2008, the Commission established a pilot program to allow the issuance of personal key employee licenses to provide criteria and information for the development of the regulations. It is anticipated that the regulations will be finalized by May 2010.



## **Compliance**

Gaming Device License Draws – In 2009, a federal court decision mandated the Commission to increase the total number of available Class III Gaming Device Licenses by 10,549. In response to the mandate, the Commission conducted a Gaming Device license draw and issued additional licenses to the Tribes that requested them.

Implementation and Review of Minimum Internal Control Standards for Tribal Casinos - In 2008, the Commission developed and implemented procedures to conduct reviews of minimum internal control standard (MICS). Initially applied to five Tribal casinos covered by the most recent amendments to their respective Compacts, the Commission anticipates utilizing a similar process for other Tribal casinos in the near future. When properly utilized, the MICS systems protect Tribal finances and assets, and the integrity of gaming operations, and also establish a regulatory framework for Tribal self-regulation of gaming.

Monitoring of Electronic Gaming Device Inspections - In 2008, the Commission implemented the inspection of Class III electronic gaming devices (EGDs). These inspections were authorized at 12 Tribal casinos through amendments to their respective Compacts. Inspections of EGDs verify Tribal regulators have implemented quality assurance practices for the accurate operation of the devices. The inspection of EGDs can determine whether a device is properly categorized as a Class II or III gaming device affecting proper payments.

Maintaining AICPA Audit Standards for Casinos - The Compliance Division continually updates its financial audit programs that monitor Tribal contributions to the State to align its procedures with changes in generally-accepted audit standards and analytical procedures. The Commission also continually tracks proposed revisions to the Audit and Accounting Guide, the Financial Accounting Standards Board's codification of generally-accepted accounting principles, and the changes made to these principles by the American Institute of Certified Public Accountants (AICPA) as they relate to the treatment of gaming revenue by Tribes and apply them accordingly.

## **Proposed CGCC-8 Tribal MICS Regulations**

In 2006, a federal appeals court held that the National Indian Gaming Commission did not have authority under the Indian Gaming Regulatory Act to enforce federal regulations for minimum internal control standards (MICS) and that the regulation of Class III gaming is the purview of Tribal-State Gaming Compacts. As a result of this decision, the Commission has worked with the Bureau of Gambling Control and the Tribes to cooperatively establish uniform procedures and standards.

In May 2007, the Commission submitted to the Association of Tribal and State Gaming Regulators (Association) a draft of its eighth regulation package, referred to as "CGCC-8", to establish Tribal MICS to ensure the integrity of Class III gaming operations in California. Throughout 2008 and 2009, the Commission held open session



hearing/workshops on its initial and revised regulation proposals, and worked with two separate task forces created by the Association. We are continuing to work with Tribal leaders, the Association, and the Bureau towards final adoption of CGCC-8.

## **ORGANIZATIONAL STRUCTURE**

The Commission is comprised of five statutorily authorized full-time Commissioners, one of which is designated as the Chairperson of the Commission. The Chairperson and the Executive Director interface with the Governor's Office. To carry out its regulatory responsibilities to its stakeholders, the Commission is organized into five divisions: Compliance, Legislative and Public Affairs, Legal Services, Licensing, and Planning and Support Services.

Each division is led by a Deputy Director who reports to the Executive Director and is a member of the executive management team. Each division has subordinate managers and/or supervisors charged with conducting the required business functions of the Commission to support our mission, vision, values, and goals. The Planning and Support Services Division (PSSD) provides administrative and information technology support services to address the needs of the entire Commission to maintain, and improve business processes.

Executive management clearly understands their responsibility and authority for business activities and how they relate to the Commission as a whole.

## **MANAGEMENT OF OUR OVERSIGHT RESPONSIBILITIES**

### **Budgeting, Accounting and Financial Reporting**

The Commission contracts with the Department of General Services (DGS) to provide accounting and financial services. The contracted services provided by the DGS includes all major accounting functions associated with CalSTARS, bank reconciliations and the submission of year-end financial reports to the State Controller's Office.

Executive management at the Commission established procedures to ensure that Commission staff works closely with the DGS to maintain CalSTARS accounting reports that are current and accurately reflect monthly expenditures and revenue receipts. The Commission's new procedures require that staff reconcile the Commission's expenditures and revenues monthly. Moreover, although the DGS staff prepares all year-end financial reports, the DGS is now required to forward them to the Commission for review prior to finalization of these year-end closing documents.

Again in its efforts to improve the accuracy of expenditures reporting, the Commission implemented CalATERS (California Automated Travel Expense Reimbursement System), effective July 1, 2009, throughout the Commission to minimize error rates as well as reduce costs, workload, and the time required for preparation and submission of travel claims.



### **Cash Management and Revenue Reconciliation and Reporting**

Cash management functions and reconciliations are performed by the Commission and the DGS. The Commission is responsible for the cash receipts function which includes the receipt of licensing and Tribal payments in the form of checks and money orders, the preparation and submission of deposits, and posting of funds to a cash receipt database known as LIS (Licensing Information System).

In June 2009 at the Commission's request, the Department of Finance (DOF), Office of State Audits and Evaluations, completed a follow-up review of the Commission's licensing and cashiering operations. This follow-up review was requested to ensure that the findings of an internal control audit conducted in May 2006 by the Commission had been adequately addressed. All observations presented by Department of Finance have been addressed with the following exceptions:

Licensing operations: DOF recommended that the Commission develop and/or update policies and procedures consistent with regulatory requirements, train staff regarding these regulatory requirements, workload expectations, use of checklists and use of recording, tracking and monitoring systems, and develop and refine reports in the LIS to capture workload data, and support licensing tracking information.

1. The Commission has implemented all the DOF recommendations with the exception of finalizing the draft policies and procedures.
2. Even though the Commission's Licensing Division has and continues to provide staff training related to ongoing licensing functions in regular meetings with staff, a more formalized training program is still in the development stage.
3. The Commission's Licensing Division is working with the Information Technology Unit to develop and refine reports in the LIS to capture workload data and license and permit process tracking information.

Cashiering operations: DOF recommended that the Commission review the bank reconciliations prepared by the DGS' Contracted Fiscal Services.

The Commission contacted DGS for the bank reconciliations; however, this may not be a feasible recommendation. DGS advised the Commission that the bank account in which the Commission's revenues are deposited is used by other agencies for which DGS provides services. Therefore, it is not feasible for the Commission to receive a separate bank statement and validate the bank reconciliation performed by DGS since these documents include the revenues from several other agencies. In lieu of validating the bank reconciliation, the Commission has undertaken a project to reconcile all prior year revenue receipts with the CalSTARS revenue reports. This project is in process and will be completed within the next few months.

Prior to July 2009, the Commission captured the receipt of all revenues deposited in the RSTF, the SDF and the General Fund via its Tribal Revenue database. All licensing



revenues were documented manually in cashiering logs. In both instances, revenue receipts were transmitted to and keyed by the DGS.

The LIS is the Commission's legacy system that tracks and maintains license applications, and the issuance and renewal of approved licenses. The LIS' cash receipt function was modified to capture all revenues received by the Commission (licensing and Tribal). Initially, revenue receipts were transmitted to and keyed by the DGS until a batch process could be developed to allow the DGS to upload data via the batch process directly to CalSTARS, and eliminate the keying of batch receipts by the DGS. When implemented, the automated upload of this batch data will improve the accuracy in the recording revenue to the appropriate fund and category, provide assurance to the Commission's stakeholders and introduce safeguards to mitigate any inherent risks.

### **Asset Management**

The Commission maintains an accurate inventory of all intellectual properties and information technology equipment. All properties are identified and State tagged, as appropriate, and the Commission reports annually to the DGS on assets as required by the State Administrative Manual (SAM).

The Commission developed and established a records retention schedule to properly store, manage and dispose of documents within the Commission's purview as mandated by the SAM. Currently, the Commission is in the process of amending its record retention policy to reflect the procedures and retention schedule adopted and implemented in 2008/09 fiscal year.

### **Purchasing and Contract Management**

The PSSD centralized all purchasing, including supply orders, and contract management in the latter part of 2009. Since the Commission is a small agency, the centralization of these functions ensures that all procurements are necessary and essential to the ongoing operations of the Commission given the State's current fiscal crisis. This centralization also ensures the accuracy of data entered and facilitates the tracking of procurement documents into the online e-Procurement system and compliance with the Governors' new "Transparency Law".

### **Human Resource and Payroll Reporting and Distribution**

With the significant growth in authorized positions over the last few years and the transfer of the human resource (HR) functions from the DGS in 2008, the Commission conducted a management assessment of our HR Office within the PSSD. This assessment indicated that the HR staff established sound record keeping methods to document appointments, miscellaneous changes and separations, and leave accounting. The assessment noted that the new HR staff reconciled employee leave balances following the transfer of data from the DGS and significantly improved the accuracy of HR record keeping.



As a result of the assessment, an action plan was established to ensure that all employees of the Commission have been fingerprinted as required by recent legislation and that subsequent reporting review processes are in place.

The assessment also identified several areas where formal policies and procedures must be developed, distributed and implemented. The Commission has developed an action plan to ensure that these necessary documents are developed over the next reporting period.

More recently, Commission staff reviewed the existing internal controls within the HR Office and the PSSD to ensure that the appropriate separation of duties were in place to minimize the risks associated with payroll documents, time reporting and payroll warrant distribution.

### **Information Technology**

The Commission's recent Information Security Risk Assessment (April 2009) and Information Technology Capitol Plan Security Survey (June 2009) confirm that all employees sign an Employee Information Security/Confidentiality Agreement which identifies detailed expectations regarding access to information, and addresses required privacy and security practices. Policies and procedures are issued formally to each employee and posted to the Commission's Intranet. The assessments identified the need to develop a comprehensive Information Privacy and Security policy/procedure on the Use and Disclosure of Confidential Information. This policy/procedure has been developed and is currently under review.

These assessments also indicated that the Commission has an overall good security evaluation rating and that our security technology is fully implemented and robust. We are close to completing the majority of our significant information technology privacy and security policies and procedures.

The Information Security Officer (ISO) is preparing a survey to perform a formal data/information inventory and classification. This survey will formally document all data/information collected by the Commission, who has access, and address any further information security and privacy policies/procedures required. The ISO has drafted an Incident Reporting Policy/Procedure which is under review.

The Commission's Operational Recovery Plan (October 2009) identifies its most critical records, functions and automated systems, and the impact of lost or destroyed information/data. The most complicated application is the LIS which is a joint effort with the Department of Justice's Bureau of Gambling Control and is hosted at Hawkins Data Center. The plan addresses backup and offsite storage procedures. Recovery procedures are of sufficient detail to allow the Commission to continue its business operation when buildings or services are not readily available.



## VACANT POSITIONS

---

The Commission is in compliance with Government Code Section 12439 as of December 31, 2009.

## RISK ASSESSMENT METHODOLOGY

---

The methodology undertaken to assess the Commission's risks included designating a FISMA coordinator and developing risk assessment processes to evaluate our risks. All Deputy Directors and program managers were provided with FISMA materials, risk assessment procedures and made aware of the project. Each had an opportunity to reflect on the risks inherent within their programs.

Initially, 14 risks were identified. Once risks were identified, they were analyzed and ranked. Potential risks were discussed to determine potential impact and probability of occurrence. Internal controls already in place were reviewed. After careful executive consideration it was determined that there are five potential risks that pose a high impact to the mission of the Commission. As these final risks were identified, Corrective Action Plans were reviewed, revised, and submitted for inclusion in the 2009 FISMA process.

## EVALUATION OF RISKS AND CONTROLS

---

### **Issue #1: The Commission's Ability to Attract and Retain Technical Expertise**

The Commission's work requires staff with expertise in the fields of auditing, and card room and Tribal casino gaming practices. The Commission also employs technical engineers to inspect Class III gaming devices and network engineers to support the Commission's technology infrastructure. Moreover, the Commission's audit and inspection functions require most of our field staff to travel extensively.

The Commission's technical expertise requirements coupled with the necessity for the current duration of travel time makes it difficult to recruit and retain staff. Moreover, the Commission's turnover rate is exacerbated by the Commission's size, which limits promotional opportunities, and higher salaries paid for similar positions in the private sector and other State agencies.

**Corrective Action:** The Commission will continue its efforts to improve its recruitment methods to attract the technical expertise needed to successfully achieve its mandated responsibilities. Absent the technical expertise required, the Commission will provide technical training to new and existing staff and



increase internal communication with our current employees on issues of concern.

The Commission also will explore alternatives to the extensive travel requirements and continue to maintain contact with the Department of Personnel Administration regarding employee compensation issues that affect the Commission recruitment and retention efforts.

With regard to our information technology infrastructure staff, the Commission will identify key information technology positions, evaluate staff skills and technical requirements, and develop an action plan to cross-train and implement back-up in critical information technology areas.

### **Issue #2: Maturing Workforce and Future Retirements**

The Commission expects to experience the loss of key employees due to retirements over the next few years. The loss of these key staff without the necessary knowledge transfer, development of remaining staff skills, or the development of new approaches to performing the work may hamper our ability to complete mandated activities.

**Corrective Action:** The Commission will develop a Workforce/Succession Plan to identify the impact to the Commission's strategic goals and objectives as well as the impact to particular program areas. The plan will be developed through a review of the Strategic Plan; identification of work functions within the Commission; identification of staffing requirements; a projection of the workforce supply with consideration of work functions and the competencies required to perform each function; analysis of identified workforce gaps; identification of priorities and solutions for the identified workforce gaps and an on-going evaluation of the Workforce/Succession Plan. The Commission is committed to having the right number of people with the right skills, experiences, and competencies, in the right jobs, at the right time.

### **Issue #3: Stable and Predictable Future Funding Sources**

The Commission needs stable and predictable funding sources for the future to fund existing programs and address any future growth. The Commission is primarily funded by two special funds - the SDF and the Gambling Control Fund (GCF). The SDF is used to support the Commission's compliance responsibilities associated with Tribal gaming while the GCF is used to support the Commission's regulatory activities associated with card rooms. As Tribal revenue contributions for new and amended Tribal-State Gaming Compacts are now made to the General Fund instead of the SDF, revenues to the SDF have dropped over the past few years and are expected to continue to diminish over time. Revenues for both funds have also diminished due to the downturn in the economy.



**Corrective Action:** The Commission will explore alternative funding sources and continue to conduct audits and reviews to ensure that appropriate payments are made to the State.

**Issue #4: Statutes and Tribal-State Gaming Compacts Include Some Provisions that Require Clarity**

The Gambling Control Act and the Compacts include some provisions that are open to different interpretation or may require regulations.

**Corrective Action:** The Commission will continue to develop regulations pursuant to State law when required or warranted. The Commission also will continue to develop regulations through the Association to provide transparent regulations related to the Compacts.

**Issue #5: Two Entities Responsible for the Regulation and Enforcement of Gambling**

The Commission, an independent regulatory agency, has responsibilities related to the regulation of card rooms and Tribal gaming, while the Bureau generally has law enforcement responsibilities as it relates to card rooms and Tribal gaming. Both entities report to different Constitutional officers. At times, questions arise regarding the distinct roles and responsibilities performed by the Commission and the Bureau.

**Corrective Action:** The Commission will continue to work with the Bureau to clarify the distinct roles and responsibilities of both entities.

## CONCLUSION

---

This review identified no material inadequacy or material weakness in the Commission's systems of internal control that prevent the Commission from complying with FISMA.